



AN INVESTIGATION INTO THE APRIL 1963 INCIDENT AT CORAL GARDENS

**OFFICE OF THE PUBLIC DEFENDER
December 9 2015**

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INTRODUCTION

Between Thursday, April 11 and Friday, April 12 1963 bloody violence flared-up at Coral Gardens, a farming community some ten miles to the east of Montego Bay along Jamaica's north coast.

This led to the death of civilians and police, innumerable personal injuries and destruction of property.

Following this there were allegations of violation and deprivation of fundamental rights guaranteed by Chapter 3 of the Jamaica Constitution 1962.

This Report concerns an investigation undertaken by the Public Defender into the events at Coral Gardens in 1963. It represents a response to complaints made by individual Rastafarian and the Rastafarian community. However, the constitutional and legal implications far surpass the 1963 Coral Gardens event.

Where possible, the Report seeks to assess and make recommendations in respect of claims for and on behalf of individuals and/or their estates, personal representatives or next of kin. In addition, recommendations will be made in relation to claims for and on behalf of the Rastafarian community as a collective for alleged loss and damage suffered during and after the Coral Gardens incident.

The launch of the Public Defender's investigation, in April 2011 revived spirited public discussion on what the Rastafarian community describes as "the atrocities," inflicted on them at Coral Gardens. In those public discussions it has been asserted

that Rastafarians were not the only persons who suffered during the Coral Gardens events.

Amidst the controversy in the public domain divergent views emerged: one is that the incident was an unlawful 'uprising' by some 'Rastas' which was properly quashed by the State; the police personnel who participated in the quelling, who died or were injured have been maligned in history; while the Rastafarian community has been lauded and accorded much sympathy for 'tribulations' suffered at the hand of the State.

This investigative report represents a modest effort at arriving at a balance.

THE PUBLIC DEFENDER'S STATUTORY MANDATE

The Parliament of Jamaica created an independent Commission of Parliament, under the **Public Defender (Interim) Act 2000**, known as the Public Defender for the purpose of enhancing our democracy charged with investigative responsibilities for the protection of the constitutional rights of citizens. When the Act was passed, Parliament was in effect repealing the **Ombudsman Act**, but what it did not do, and rightly so, was to abolish the functions of the Ombudsman. What was created, as reflected at Section 13 of the 2000 Act, is a hybrid body that not only inherited the functions of the Ombudsman, but at its door was placed the responsibility of investigating alleged constitutional breaches by the State.

In sum, the Public Defender is:

- (a) An independent commission grounded in objectivity and impartiality, independent of the executive and legislative arms of Government.
- (b) An independent commission charged with the responsibility of promoting accountability, active citizenship and reinforcing the laws of Jamaica particularly the Constitution.
- (c) The rights which the Public Defender is charged with the legal duty to protect and enforce, are those contained in the Constitution of Jamaica.

On conclusion of an investigation, should the Public Defender be of the opinion that there has been a breach by the State of a person's or group of persons' constitutional rights; the Public Defender can seek redress.

THE RIGHTS

The relevant "constitutional rights" referred to in Section.13 (1)(a) (ii) of the **Public Defender (Interim) Act 2000** are those formerly entrenched in the original Chapter III of the Jamaica Constitution, itself also now repealed and replaced by the **Charter of Fundamental Rights and Freedoms (Constitutional Amendment) Act, 2011**.

The Charter received the Royal Assent on April 8 2011 but does not, of course, apply retrospectively, and so the investigation into the incident at Coral Gardens is premised on the former Chapter III of the un-amended Constitution.

Chapter III guaranteed, *inter alia*, the following constitutional rights:

- Protection of the right to life
- Protection from arbitrary arrest or detention
- Protection from discrimination
- Protection of the freedom of movement
- Protection from inhuman treatment
- Protection for privacy of home and other rights
- Protection of freedom of conscience
- Protection of religious freedom
- Protection of freedom of expression
- Protection of freedom of assembly and association

The Investigation

The Public Defender is not empowered to investigate complaints by citizens against citizens, but complaints by citizens against the State and agents of the State. Therefore the Public Defender is not authorized to investigate or make recommendations in respect of complaints made by the police or other citizens against Rastafari individuals or the Rastafarian community, or complaints made by individual Rastafari or the Rastafarian community against other citizens.

The Public Defender is well aware of persons, including police officers, who allege that their constitutional rights were infringed by members of the Rastafarian community. Indeed, the records show that police officers were killed and some permanently injured in the clash between Rastafarians and agents of the state during the events at Coral Gardens. Thus for example, one particular police officer,

Constable Errol Campbell then a 23-year-old was rendered permanently disabled because of severe injuries to his head and wheel chaired bound from that time.

The remit of the investigation and of this Report is therefore to make recommendations in respect of complaints and claims by Rastafarian individuals as well as the Rastafarian community against the State for alleged injustices and infringements of their human rights, including their constitutional rights then protected by Chapter III of the Jamaica Constitution of 1962.

The Report also makes recommendations regarding policies to ensure that the rights of all individuals, including Rastafarians and the Rastafarian community are safeguarded against a repeat of the events surrounding the Coral Gardens incident.

In light of the aforementioned, the Public Defender was duty bound to act on the complaints, by launching this investigation into the Coral Gardens incident.

Finally, the Public Defender is also empowered to find appropriate remedy of redress where appropriate.

Although, according to Section 13(2) of the Public Defender (Interim) Act 2000 the enabling statute, the Public Defender shall not investigate any action in respect of which the complainant has or had a remedy by way of proceedings in any court or in any tribunal constituted by or under any other Act, Section 13(3) provides that the Public Defender may conduct such an investigation if she is satisfied that in the particular circumstances it is not reasonable to expect the complainant to take or to have taken proceedings.

The Public Defender is satisfied that in the prevailing conditions of a newly independent Jamaica and where there was no formal legal aid, it is and was not reasonable to expect the complainants to take or to have taken proceedings against the State for the alleged injustice meted out to them.

According to Section 13(4), the Public Defender is not precluded from conducting an investigation in respect of any matter by reason only that it is open to the complainant to apply to a court for redress under Section 25 of the Constitution.

The Public Defender is therefore fully satisfied that she has jurisdiction to investigate the Coral Gardens incident in accordance with the mandate of the Act.

The Public Defender is empowered by Sections 16 (11) and (12) of the Act to make recommendations upon the conclusion of any investigation. It is on this statutory basis that the Public Defender has made the recommendations herein.

Set out below are the relevant provisions of the Public Defender (Interim) Act. By section 16 (11) and (12) it is provided that –

“(11) On the conclusion of an investigation, the Public Defender may make to the authority concerned such recommendations as he thinks fit and in particular, but without prejudice to the generality of the foregoing, may recommend any or all of the following –

- (a) that the action which was the subject-matter of the complaint be reviewed;*
- (b) the alteration of an enactment, rule or regulation which causes or may cause injustice or infringement of constitutional rights;*

(c) that compensation be made to the complainant.

(12) If the Public Defender finds, during the conduct of his investigations or on the conclusion thereof, that there is evidence of a breach of duty, or misconduct, or criminal offence on the part of an officer or member of any authority, he shall refer the matter to the person or body of persons competent to take such disciplinary or other proceedings as maybe appropriate against that officer or member and in all such cases shall lay a special report before Parliament."

Should the Public Defender's recommendations for remedying infringement of constitutional rights are not accepted by Parliament there is recourse to the Judiciary. It is hoped that this will be an avenue of last resort, as the judicial process is adversarial, rooted in the law of evidence, procedures and rules of court and precedent while this is a matter that requires a broader examination to include socio economic conditions of Jamaica, then a newly independent state.

METHODOLOGY (COLLECTION OF EVIDENCE)

The Public Defender utilized the investigation procedure provided by Section 16 of the Public Defender (Interim) Act. The Report is primarily based on the several complaints of witnesses who gave hand-written statements to the Public Defender since the commencement of the investigation into the relevant events surrounding the Coral Gardens incident.

The Report is also based on interviews, previously conducted with complainants and witnesses, which were collected by several other persons prior to and during the investigation of this matter by the Public Defender. These include interviews recorded by Ras Junior Manning, the Rastafari Coral Gardens Committee, Ras

Miguel Lorne, Professor Deborah Thomas, Marcus Goffe and the Rastafari Archiving Cultural Expressions (RACE) Committee of the Rastafari Millennium Council.

All complainants and witnesses, whether they gave written or audiovisual statements, provided same separately and independently, as to what they suffered or witnessed during the events and its aftermath, and how those events severely affected them, their families, friends and associates.

Witness statements were also provided by a few former members of the Jamaica Constabulary Force (JCF), who were involved in the Coral Gardens events of 1963. Those were also considered, as well as treatises, newspaper reports and other available documentary records of the day that could shed some light on what transpired.

It should be noted here that several persons who could have assisted the investigation, declined to give statements or provide relevant documentation, some out of fear or condemnation and others out of lack of sufficient interest.

Nevertheless, the Public Defender expresses profoundest appreciation to those who took the time to assist and to relate their recollections and experiences of the event investigated.

Written statements were recorded by the Public Defender as and when persons visited our offices. Written statements were also recorded at the Pitfour Nyahbinghi Centre, which is located in the parish of St. James.

The Public Defender is much obliged to the Rastafari Coral Gardens Committee for its assistance with co-ordination and logistics that enabled those external visits to occur, as it is appreciated that many of the victims of the Coral Gardens incident are elderly and reside in rural areas and would not have been able to conveniently attend at the Public Defender's office to give their testimonies.

According to Section 14(3) of the **Public Defender (Interim) Act 2000**, every complaint to the Public Defender shall be made in writing. Section 2 of the **Interpretation Act** defines "writing" as including printing, lithography, typewriting, photography and other modes of representing or reproducing words or figures in visible form. The investigation and this Report, therefore, draw upon written statements as well as audiovisual recordings that were submitted. Some of the individuals who were recorded on camera by others, have since died but their testimonies, nevertheless, have been invaluable in compiling this Report and informing the recommendations made at the end of this Report.

Numerous victims of alleged atrocities have died since the events of 1963. Though efforts were made to contact some next of kin, that task proved formidable and in the main futile. Still, many victims, spread as they are across the length and breadth, hills and valleys of Jamaica, have not come forward to give statements, perhaps due to lack of knowledge of the process, or lack of faith in the "system" they call "Babylon".

For these reasons, it is to be appreciated that the relatively few statements collected, in comparison with the Tivoli Gardens investigation, for example, may not reflect the extent of the breadth and depth of the trauma reportedly suffered by members of the Rastafarian community.

The Report also relies substantially on contemporaneous reports, stories and articles printed in the **Daily Gleaner**, select books, Hansard Reports and the few records received from relevant public authorities.

Letters were written and telephone calls made to all of the Courts, police stations and prisons that were mentioned in statements collected, in an attempt to obtain any available records that would assist the investigation.

Regrettably, the Montego Bay Resident Magistrate's Court does not have any records preceding 1967, due to flooding and fire that destroyed part of the records room. Record were found at the Trelawny Resident Magistrate's Court for two (2) men, Mr. Prince Albert Williams and Mr. Enos Aldeen (the effect of these will be discussed later in this Report).¹

In addition, letters from the Department of Correctional Services dated February 17, 2012 and the Trelawny Police Divisional Headquarters dated February 10, 2012 indicate that the Correctional Services and the Trelawny Police no longer have records dating back to 1963.

Also, the Public Defender was informed by the Department of Correctional Services that some records were destroyed at the St. Catherine Adult Correctional Centre in 1988 as a result of Hurricane Gilbert.

Requests were also made of the University Hospital of the West Indies (UHWI) for medical records for former police constable Errol Campbell. However, responses from UHWI indicated that such records from 1963 were destroyed in accordance

with the UHWI Medical Records Retention and Disposal Policy and the Ministry of Health guidelines.

E-mail correspondence was received from Mr. Keeble McFarlane, former journalist with the Jamaica Broadcasting Corporation (JBC), who had covered the breaking story in Coral Gardens. He recalls arriving in Montego Bay and seeing several Police Land Rovers with dead bodies therein. He recalls the subsequent rounding up of Rastafarians or anyone the authorities thought to be one, and the subjecting of them to varying degrees of harassment. However, he does not recall much more and did not retain any of his related work while at the JBC.

Radio Jamaican Limited, formerly named Radio Jamaica and Rediffusion (RJR) and the National Library were contacted requesting any audio/visual footage related to the incident that may have been recorded, but to no avail.

Contact was also made with former Gleaner editor Mr. Ken Allen and veteran journalist Mr. Ken Chaplin. Mr. Chaplin was not able to assist; It would appear that at that time in 1963 he was not in Jamaica.

This Report, therefore, represents the culmination of an imperfect, but nevertheless very important, process, as the Public Defender is confident that it will contribute in some way by shedding light on what occurred at Coral Gardens on April 11 and 12, 1963 and also help to repair the damage allegedly experienced by the Rastafarian community as a result of the occurrence, known by the Rastafarian community as the "*Coral Gardens Massacre*", "*Coral Gardens Atrocities*", or simply, "*Bad Friday*."

THE PASSAGE OF TIME AND STATUTORY LIMITATION

It must be appreciated that in an investigation of this nature, the impact that the passage of time can have, not only on the memory of those who volunteered assistance in the investigation but equally, on the prospect of any potential claim.

The issue of the passage of time offers an important reason for this report, in that, *the collective consciousness of the nation has not faced this seminal event in its history*. However, the Public Defender believes that the country must confront not just the State's treatment of a specific community, but also how the majority of the community treated with a minority of its members who did not share the beliefs of the majority. A maturing democracy demands this process of discovery on this issue, as a small measure to ensure that there are no repeats or attempts to effect same in the future.

This report contends with the view that the **Limitation of Actions Act** precludes those who were affected by the Coral Gardens incident from seeking redress from the State on account of the passage of time. This view is one which has to be answered by a reminder of the fact that Section 25 of the 1962 Constitution of Jamaica makes express provision for the method of enforcement and protection of human rights and civil liberties. It is provided that any person who alleges the contravention of his rights may apply to the Supreme Court for redress. Importantly, the Constitution (amended and un-amended) does not stipulate any time-limit or period within which an applicant must make his or her application for redress of a Constitutional breach.

Notwithstanding the absence of a statutory bar undoubtedly, the passage of time has impacted greatly on the availability of records such as medical reports, court documents and station diaries entries. The cumulative effect renders it difficult if not impossible, to prove a case in court pursuant to the rules of evidence and procedure.

THE BEGINNINGS OF RASTAFARI: PIONEERS AND REPRESSION

Rastafari emerged in Jamaica in the 1930s out of the social, political, economic and religious conditions of colonial Jamaica and the world, which led some to reject the colonial, racial, Eurocentric overlordship of Britain and to positively identify with the Ethiopian monarch, Emperor Haile Selassie I as the King of Kings, the Returned Messiah.² Rastafarian pioneers emerged following the coronation of His Imperial Majesty Haile Selassie I as Emperor of Ethiopia on November 2, 1930.

Pioneers included Leonard Percival Howell, who is today recognized as the first Rastafarian. He suffered severe and targeted abuse and persecution by the colonial authorities in Jamaica during the 1930s and 40s.³ His organizational activities, including public speeches, which combined anti-colonial critique with Rastafarian evangelism, were closely monitored by the Jamaican and British governments.⁴ Other Rastafarian pioneers who spread Rastafari beliefs in the streets of Jamaica in the 1930s were Joseph Hibbert, Archibald Dunkley and Robert Hinds.⁵

Rastafarian efforts at self-determination were repeatedly thwarted by the State. Leonard Howell's Rastafari commune at Pinnacle at St. Jago Hills close to Sligoville in St. Catherine was repeatedly raided by police. Mr. Howell, on more

than one occasion, was prosecuted for treason and sedition, and imprisoned or institutionalized at the Bellevue Mental Hospital as a result.⁶ In 1954 Pinnacle was burnt to the ground.

The persecution of the early Rastafarian preachers/leaders by the State is manifested in most of the literature including the governmental communications about them. There were attempts to suppress the individual and collective expressions of Rastafari, including their combination of anti-colonial critique and Ethio-African-inspired spiritual evangelism.

Other interdependent Rastafari communities and camps were established during the 1940s. These included communities in St. Catherine, Clarendon, St. James, St. Thomas, Kingston and St. Andrew.

During the 1940s Rastafari camps were established across Kingston and St. Andrew at Warieka Hills, Windward Road, Mountain View, Maxfield Avenue, Waterhouse, Jones Town, Back-o-Wall, Foreshore Road, Greenwich Farm, Ackee Walk and Tower Street.⁷ In St. James, camps were established at Montego Bay, Glendevon and Granville.⁸ Other Rastafari camps were established all over the island,⁹ even after the final invasion and dispersion of Rastafari at Pinnacle by the police in 1954.

The late Professor Barry Chevannes, in **Rastafari: Roots and Ideology** opined that there is no doubt that historically there has been extremely strong prejudice and discrimination against Rastafari in Jamaica, by the State and by many within the Jamaican society.¹⁰

From as early as 1933 when Leonard Howell started preaching in St. Thomas his activities were reported in the **Daily Gleaner** and under scrutiny of the colonial government of Jamaica.¹¹ Indeed, it has been said that “[t]he political threat posed by Rastafari agitation was fully recognized by the colonial regime as early as 1933-34. This was confirmed by its attempt to repress the movement’s leadership by arresting Leonard Howell and his lieutenant, Robert Hinds.”¹²

For preaching against the British monarchy and pledging open allegiance to the Ethiopian Emperor, Howell and Hinds were arrested and charged in January 1934 in St. Thomas for sedition.¹³ The trial of those early Rastafari preachers was heavily reported in the **Daily Gleaner** and followed by the general populace, as Jamaicans became exposed to public anti-Rastafari sentiment. The Rastafari doctrine and community were on trial and under scrutiny.¹⁴

It was reported that there was “a great deal of amusement afforded by the fanatical utterances” of Howell and Hinds in Court.¹⁵ For expressing his spiritual beliefs and revering HIM Emperor Haile Selassie as the Messiah, Howell and Hinds were convicted and sentenced in March 1934 to two years and one year imprisonment, respectively.¹⁶ The conviction and sentence seem not to have been adequate punishment. The police under the leadership of Inspector Walters attended at Howell’s camp in St. Thomas and smashed it. ¹⁷ Between 1934 and 1935 other early Rastafari leaders were also targeted and prosecuted, including Archibald Dunkley in 1934 and 1935 and Joseph Hibbert in 1935.¹⁷

The **Daily Gleaner** subsequently reported in 1935 that the activities of the Rastafari had been successfully suppressed in St. Thomas and that the Rastafari had been prohibited from holding public meetings.¹⁸ Not only was that not true,

but the movement had spread to other areas of Jamaica, despite the active suppression by the State.

Other Rastafari leaders, including Altamont Reid, emerged. He too was convicted in 1938 for sedition.¹⁹ Rastafari spread to Kingston from St. Thomas and into other parishes. The historical records show clearly that “[f]rom 1935 onward, however, the movement was subject to increasingly intense police repression in St. Thomas and the eastern countryside.”²⁰

In the period of the Italian invasion of Ethiopia and the formation of the Ethiopian World Federation (EWF) many Rastafarians established branches of the EWF in Jamaica. The Rastafari community was energized to lend support to the Ethiopian Emperor and Ethiopian people.

After his release, from prison Howell returned to St. Thomas. However, he and his followers were mobbed by citizens in St. Thomas in January 1937. Dunkley, Howell and Hinds continued their Rastafari evangelism separately in the late 1930s early 1940s, in downtown Kingston and St. Catherine.

Popular public sentiment openly denigrated Rastafari and suggested their extermination. The Rastafari were referred to as “the dangerous cult” in the **Daily Gleaner** in 1934.²¹ The public mobbing of Howell and his followers in 1937, was extensively reported. The police allegedly looked on or even participated. The fact that there was no reported public condemnation, demonstrates that there have long been hostile responses to Rastafari by the Jamaican citizenry, which were sanctioned by agents of the State.²² Howell’s move from St. Thomas to Kingston was also met with complaints from many middle and upper class Jamaicans.²³

By March 1937 the Colonial Secretary, in responding to a petition of complaint brought by The Kingston & St. Andrew Civic League against the 'religious sect' known as Ras Tafari advised that '....the Government is considering the enactment of legislation to prohibit the practices of these curious religious cults.'

Howell was again arrested and charged in 1937 and this time sent to the Bellevue Hospital where he remained until the end of 1938.

He formed his Ethiopian Salvation Society in 1939 and continued to preach Rastafari beliefs in St. Thomas, in spite of the actions of the State. By 1940 he was stopped again by police on the premise that his activities would incite the public during a period of the war.²⁴ Howell went on to establish his Rastafari commune at Pinnacle in St. Catherine, which has its own long history of colonial surveillance and harassment by the State.

Pinnacle was singled out for special treatment not only by police officers but other agents of the state in particular the health authority. The strategy of the health authority is revealed in a communication dated 16.1.41 from the Assistant Director of Medical Services to the Colonial Secretary. The instructions given by the Assistant Director of Medical Services were for systematic inspections of the camp to detect breaches in public health laws. The Assistant Director of Medical Services concluded that the 'Local Parochial Board appears to be in an excellent legal position to demand a number of expensive undertakings in the Camp with the alternative that they may go in and do the work and charge it to the owner;...' In response the Clerk of the Parochial Board R.D.G. Lewars, assured the Assistant Director of Medical Services that such inspections and investigations were already being done and stated '... that there was always an appreciation of our powers

under the Public Health Law but on the reports of our Health Department it would seem that there has been no ground for drastic action.'

The police continued its relentless march to quash the seeds of Rastafari which was regarded as inimical to the state and society. It was on the early morning of July 14 1941 that Deputy Commissioner of Police led a party of 115 police officers to raid Pinnacle. The Commissioner of Police in his report to the Colonial Secretary dated 17.7.41, accounted as follows; "The male population of the Camp was rounded up by the Police and 70 of these arrested... and are now remanded in custody awaiting trial at Spanish Town." Allegedly, "...in a field in the Camp and close to Howell's residence a Ganja cultivation was found. 101 plants of Ganja were removed as exhibits together with a number of seedlings which were being cultivated." Howell was again arrested and convicted, along with over 70 Rastafarians. Those events were extensively reported in the **Gleaner**, heightening public fear and suspicion of Rastafari.²⁵

By March 25, 1944 Howell was again arrested and incarcerated at the St. Catherine District prison awaiting trial on a charge of murder of his wife. The then Attorney-General by letter dated 4.4.44, advised the Colonial Secretary that he terminated the prosecution as there was no basis in law for Howell to have been charged in the first instance, his wife having died of natural causes.

Reportedly, it was at Pinnacle that the more openly defiant manifestations of dreadlocks worn by Rastafari began to appear in the late 1940s early 1950s. Some say, the manifestation of dreadlocks was inspired by the Mau Mau revolutionaries then fighting colonialism in Kenya.²⁶ This quickly spread among the younger more

confrontational Rastafari adherents, especially in the urban Rastafari camps such as the Youth Black Faith.²⁷

This inspired more fear among the Jamaican citizenry. The beards and the dreadlocks became symbols of Rastafari. This fuelled and exacerbated some of the anti-Rastafari prejudices, as well as contributed to Rastafarians being stereotyped as criminals.

Noted Rastafari elder, Philmore Alveranga, cites 1951 as the year when the first physical tribulation was visited upon Rastafari. In that year Wappy King was accused of killing a Chinese boy and raping the girlfriend who told the Police that it was a 'Rasta' who did it, because he had a beard. The event sparked intense public outrage against Rastafari, as by the late 1940s to early 1950s, the general public identified beards with Rastafarians.²⁹ The Police responded by forcibly trimming men with beards, which included most Rastafarians.

The police arrested a suspect within two days. However, Rastafari was identified as the culprit and subjected to special treatment. The **Gleaner** reported the rise in "public resentment and hostility to bearded men and to their anti-social cult," and that it had received numerous letters to the editor "demanding a campaign to clean out the dens of these Ras Tafariites"³⁰ The **Gleaner** supported "a very necessary outbreak of public clamour for an end to be put to these queer sub-social and inimical groups" which had "created kraals of wickedness in the city"³¹

One influential personality wrote in the **Daily Gleaner** in 1951 that:

"The worst evil of all are the members of that bearded cult who style themselves the Ras Tafariites and claim some kinship with Abyssinia. In

reality this group has no religious significance, do not even know where Ethiopia is, and merely adopted the untidy habit of letting hair and beards grow through laziness and filthiness and a desire to appear more terrifying... if a start is made by cleaning out these so called Ras Tafariites it will have a salutary effect on the remainder of the wrong doers."³²

A **Gleaner** columnist advocated the expulsion of Rastafari from their communities, including Wareika Hills, Palisadoes and the Foreshore Road area (Dunghill) and their removal to "*prison camps*" where they could be "*tamed*" with the tamarind switch or the cat-o-nine tails.³³ It seems that the Government heeded the call of the public. An estimated 1500 Rastafarians were forcibly evicted from Wareika Hills, Palisadoes and the Foreshore Road area (Dunghill). Many were charged for ganja.³⁴

Persecution of Rastafari leaders continued. Leonard Howell was again arrested in April 1954 for unlawful possession of medical instruments and in May 1954, Pinnacle was raided by police for the second and final time, that time on the premise of curtailing ganja cultivation there. The 1954 raid on Pinnacle was described as the biggest raid in local police history, involving over 173 armed policemen and over 140 Rastafarians arrested.³⁵ The 173-strong joint police/military force seized eight tons of ganja and arrested 140 persons; about half of them were women and children. During the following days they destroyed thousands of ganja trees. (Daily Gleaner May 25, 1954, p.1)³⁶ Most of those arrested excepting the women and children, were convicted and sentenced to imprisonment ranging from six months to two years.

Pinnacle was destroyed and would never return to its former stability as a Rastafari communal space.³⁷ Indeed, it has been said that the history of the treatment of

Leonard Howell and Pinnacle by the State “showed such unrelenting opposition to the settlement that with hindsight it is now possible to assert that they wanted to kill the seed of cooperation and open love for Africa before it blossomed in society.”³⁸

In March 1958 Prince Emmanuel Charles Edwards convened a convention of all Rastafari groups within Jamaica. Reportedly, “[t]he militant behavior of the Rastafarians, their open defiance of the Jamaican authorities and the publicity in the press soon resulted in increased police harassment.”⁴⁰ After that “Groundation,” numerous Rastafari were arrested for ganja, and were beaten and forcibly trimmed.⁴¹ In May 1958, the police burned down Prince Emmanuel’s Rastafari camp and arrested him.⁴²

In June 1958, nine Rastafari families were forcibly evicted from lands in Spanish Town and their homes destroyed. In October 1958, the police raided a Rastafari camp in Westmoreland imprisoned its leader who was later convicted and sentenced. Further confrontations between Rastafari and the police occurred in Linstead in 1958, when it was alleged that a group of Rastafarians attacked two police officers. During the incident, the police shot and killed a Rastafarian. Four Rastafarians were arrested but reportedly were never seen again.⁴³ The 1958 “Groundation” has therefore been described as “*the decisive point in the deterioration of relations between the Government and the public on the one hand, and the Ras Tafari movement on the other,*” as a result of the heavy public emphasis on the anti-social elements of Rastafari.⁴³

In May 1959 there was another confrontation between Rastafari and the police, arising out of a dispute between a Rastafari gatekeeper and a policeman with

duties at Coronation market. The beating of the Rastaman caused a violent reaction by some of the market vendors. The police brought in reinforcements and a police van as well as a fire truck were set afire, allegedly by a group of Rastafarian. There was a physical confrontation between the police and the crowd at the market. The police brought it under control. They then proceeded to the Rastafari area of the nearby Back-o-Wall; there, approximately 57 Rastafari were arrested, many beaten, forcibly shaved and their houses destroyed.⁴⁴

In 1959 reputed Rastafari leader, Reverend Claudius Henry, was found with a letter to Fidel Castro discussing plans to take over Jamaica. Castro had just successfully overthrown the Batista government by armed revolution in Cuba. Then in 1960, Reverend Henry's son, Reynold Henry, led a group of black nationalists in an uprising. He and his co-conspirators were arrested after a large manhunt involving police and the soldiers in Sligoville, St. Catherine. It was believed that Henry and his group were planning to overthrow the government of Jamaica.

Premier Norman Manley declared a State of Emergency, and the army subsequently crushed the 'uprising'. Reynold Henry and his conspirators were convicted for treason and hanged.

In the minds of some Jamaicans, the Henry affair was a nefarious attempted Rastafari revolution. In response, the police embarked on island-wide raids and arbitrary arrests of Rastafari.⁴⁵ That saga gave some credence to the view that Rastafari was "*a potential breeding ground for communists, for violent revolutionaries and ... a shelter for criminals*".⁴⁶

The Rastafarians at Ackee Walk in Kingston were repeatedly targeted and harassed by the police.⁴⁹ At a Rastafari Convention at Ackee Walk in 1960, the police arrested almost one hundred (100) Rastafarians in what was described as “*a fairly serious confrontation*”.⁵⁰ Following that incident, it is reported that a group of Rastafarians presented a petition with over four thousand (4,000) signatures to the government, requesting, that the concerns of the Rastafari community be addressed.⁵¹

Strong anti-Rastafari sentiment was shared by many within the Jamaican Government and indeed Rastafari was the subject of many official communications. By October 1962, Brigadier P.E. Crooks, of the Jamaica Defence Force, D.S.O., O.B.E., M.A. submitted a paper to the Governor General, Sir Kenneth Blackburne, GCMG, GBE., for consideration by the Defence Board in which Rastafari was identified as an internal threat to Jamaica’s national security. The Brigadier reasoned that ‘... the internal threat is well known to readers of this paper and does not require much elaboration. Briefly, Communism will try to infiltrate by all possible means and may make active use of the following:- (i) Extreme racial organizations, e.g. The Rastafarians approx. strength 3,000-5,000, not organised but a potential danger’

Official documents of the Government of Jamaica, as well as the fact that State agents and resources were brought to bear so heavily and pointedly on the Rastafari community, forcefully suggest the existence of a systematic State policy aimed at the harassment, undermining and suppression of the Rastafari. The nature of that antagonistic relationship between the State and the Rastafari worsened in the 1960s.

A 1960 Report, by University of the West Indies lecturers, M.G. Smith, Roy Augier and Rex Nettleford, is telling: It reported that “[t]he general public believes in a stereotype Ras Tafari, who wears a beard, avoids work, steals, smokes ganja, and is liable to sudden violence.”⁵³ However, the Report noted that that stereotype was applicable only to a minority, recognizing that “[t]he great majority of Ras Tafari brethren are peaceful citizens who do not believe in violence”.⁵⁴ Further, the authors of the Report concluded that “[t]he general public who are quite out of sympathy with the Ras Tafari seem to have ranged themselves on the side of Government and the police”⁵⁵

The authors of the Report observed that “relations between Ras Tafari brethren and the police have deteriorated sharply over the last few years... even more sharply in the last four months, in the course of which the police have carried out extensive raids, made numerous arrests, and, in the heat of the moment, have indulged in many arbitrary acts against Ras Tafarians.”⁵⁹

In conclusion the 1960 Report recommended that positive action should be taken by the Government of Jamaica to meet the reasonable demands of the Rastafari community⁶¹ and therefore recommended, *inter alia*, that:

- the freedom of speech and freedom of movement of the Ras Tafari should be respected;⁶²
- the public should cease to stereotype all Ras Tafari;⁶³
- the public should learn to recognize that religious people have a right to wear their hair long if they wish; the Minister of Education should prohibit teachers from cutting the hair of children without their parent’s permission.⁶⁴

- The police “should leave innocent Ras Tafari brethren alone, stop cutting off their hair, stop moving them on, stop arresting them on minor pretexts, and stop beating them up”;⁶⁵
- Ras Tafari brethren should be assisted to establish co-operative workshops;
- The Government of Jamaica should send a mission to Africa to arrange for immigration of Jamaicans who wish to go;
- The Government of Jamaica should build low rent houses to reduce squatting, for Rastafari and other low-income or unemployed persons;
- The Government of Jamaica should build civic centres and training centres and cooperative workshops, for Rastafari and other low-income or unemployed persons, in collaboration with churches and UCWI.

The early literature about Rastafari and their religious beliefs labeled them as uncivilized, cultists, millenarian and escapist, and tended to focus, with negative distorted characterizations and aspersions, on symbols of Rastafari such as locks, beards, ganja and the divinity of Haile Selassie.⁶⁶ Those views manifested themselves in the unlawful cutting of Rastafari locks by police, targeting of Rastafari for arrest and prosecution for possession, cultivation and smoking of ganja. Thus, there was and continues to be a ‘stamp of criminality’ firmly placed on the Rastafari, as a result of the Rastafari sacramental use of ganja and the perpetuation of the notion that ganja use leads to criminality.⁶⁷ State violence against Rastafari was sustained continuously over several decades prior to the Coral Gardens incident of 1963 and perpetuated after Coral Gardens. Amendments to the

Dangerous Drugs Law was the State's primary tool employed to criminalize a whole section of the Jamaican community.⁶⁸

As Retired Detective Selbourne Reid explained in the film **Bad Friday**, police while at training school often used images of Rastafarians as targets for shooting practice at the shooting range.

By the 1950s and 60s when the outward appearance of dreadlocks became prevalent among Rastafari, many people were afraid of them.⁶⁹ Generally, Rastafarians in Jamaican society were feared and scorned, often stoned, ridiculed and beaten by civilians. They were branded as cannibals and as "*Black Heart Men*". Rastafari, thus, had to live and function underground for the most part, avoiding public places, streets, transports, and living and travelling in gullies and bushes.⁷⁰

Rastafari resistance to the status quo has been expressed through song, most notably through Reggae, food, language, fashion, art, craft, religion, rituals, customs and communal living.⁷¹ It is within the foregoing socio-political, cultural and religious context of the historical relationship between the State and the Rastafari community that the subject matter of this report and the recommendations herein are considered.

The events at Coral Gardens in April 1963 marked a significant watershed in the relationship between the Rastafari community and the State. The discrimination against that community was inflicted by the citizenry as well. Indeed, "*Rastafari had to contend with hostility from many quarters*".⁵²

CORAL GARDENS EVENTS

There are several accounts as to what provoked the Coral Gardens incident. In addition to the written statements and audiovisual interviews collected during the investigation by the Public Defender, accounts were gleaned from the **Gleaner** newspaper, as well as from academic and other historically researched publications. The Public Defender also obtained a copy of the book “*Rastafarians’ Uprising at Coral Gardens, Jamaica: 8 killed and Hundreds Injured. An Eye Witness Account*”, written by retired police detective, Selbourne Reid. Mr. Reid was also interviewed on the **Bad Friday** DVD.

According to retired detective Selbourne Reid in *Bad Friday* (at 18:55), he and other police at the Barnett Street police station in Montego Bay, received a report on the Good Friday, April 12, 1963 that the gas station in Coral Gardens was on fire. Six (6) rifles were distributed among them. Under the command of Inspector John Fisher the police party boarded a vehicle and headed for Coral Gardens. The Inspector in charge of the detail carried the ammunition.

Former Police Constable Errol Campbell was a 23-year-old rookie cop stationed at the Barnett Street Police Station. He was off-duty but when the call came he joined the other police officers deployed in response to the report of the fire at Coral Gardens.

Upon arrival at Coral Gardens, he recounted that he saw a group of Rastas waving spears, hatchets and machetes. The Police ordered them to drop their weapons. The Rastas complied but upon realizing that the police guns were not loaded, they proceeded to retrieve the spears, hatchets and machetes and attacked the police.

During the encounter, Inspector John Francis who was himself wounded threw out some ammunition to the police officers to defend themselves from the attacking group of men.

On a Star Investigator's account *"It was not until a young cop, Constable Albert Victor Nelson, shouted harsh words to the Inspector to let him have ammunition that Inspector John Fisher who was on the ground struggling to escape being chopped, finally threw out some of the cartridges..."*

Constable Campbell ran and fell. He was set upon and chopped all over his body. Miraculously, he survived and was admitted to UHWI for an extended period.

Benjamin 'Rudolph' Franklyn's daughter explained that Franklyn's father had left a lot of land for him at Coral Gardens, where he did some farming. According to Rastafari Elder Ras Junior Manning,⁷² Rudolph lived at Rose Hall and used to farm above Salt Spring in St. James. Many of the Salt Spring residents at the time worked at the Rose Hall property where Rudolph regularly burnt coal.

The first encounter between Rudolph and the police occurred when the police raided Rudolph's farm at about the time when the crops were ready for reaping. The police reaped what they wanted, and chopped down the rest. Rudolph told them that he is not a squatter. The Police told him that he was too close to Rose Hall.

On a second occasion, the police again raided his farm, reaped what the wanted and chopped down the rest. On the third occasion, Rudolph was on his farm

working with his machete. The Police told him to drop the machete. He refused. They shot him three times in his stomach.

According to Rudolph's daughter in the *Bad Friday* film (22:18), that was in and about October 1961. Retired Detective Selbourne Reid in the *BlackFriday* film (26:55), recounted that the Police had gone there to serve a summons on Rudolph to leave the property.

Respected journalist Mr. John Maxwell (deceased) in his article in **Public Opinion** dated April 27, 1963 identifies Rudolph Franklin as the leader of the unlawful events which led to what occurred at Coral Gardens and the confrontation between Rastafari and the police. He wrote:

“Many months ago, Rudolph Franklin, one of the three Rastafarian brethren who was shot dead on Thursday, April 11, occupied a plot of land on the Rose Hall Estate. The headman of the property, Edward Fowler, who also died on April 11, brought a policeman to evict the brother off the land. The unarmed brother was shot six times by the police, and believed to be dead and was not taken to hospital until hours after. The brother recovered after months of medical treatment, although he was told by the doctor that he would live for only a short period. He was immediately sentenced to six months imprisonment on a charge of having ganja.”

It is said that upon his release from prison, Rudolph vowed revenge. He had had plastic surgery done to his stomach and reportedly had been told by the doctor that anytime the plastic rotted, he would die. This account was related several times and also by 76-year old Isaac Wright (Bongo Isaac).

Rudolph felt very angry that he had been maliciously prosecuted, shot, seriously injured, tried, convicted and sentenced, for doing nothing wrong on his assessment.

Walter Brissett, one of the headmen of the Rose Hall property, in his interview in *Bad Friday* (at 28:30), stated that Rudolph did nothing wrong.

On Friday, April 12, 1963 a gas station at Coral Gardens was burnt to the ground allegedly by “a group of Ras Tafarians.” The following day, Saturday, April 13, the **Gleaner** front page headline read:

“8 Killed after attack on gas station: Two policemen, three Ras Tafarians among the dead”.

From that report, the persons killed were Assistant Superintendent Bertie Scott, Detective Corporal Clifford Melbourne, Mr. Kenneth Marsh, Mr. Edward Fowler (property headman at Rose Hall estate) and Mr. Albert Causewell (Assistant In-bond Shop Manager).

Allegedly the group of Rastafari attacked and killed Mr. Edward Fowler while he was tying his goats. They allowed the attendant to flee, before dousing the station with gasoline from the pumps. A by-stander and travelling salesman Mr. Marsh, went to look what was happening but was chased into a nearby motel where he had been staying and killed. The police party which included civilians travelled in seven vehicles went in search of the wanted Rastafarians. A violent confrontation ensued, resulting in the death of civilian Albert Causewell and Detective Corporal Clifford Melbourne. Later, a second police party went in hunt of the wanted Rastafarians. That encounter resulted in the death of Superintendent Scott and another Rastafarian from the group.

The response from the political directorate was immediate. A plane was commissioned to fly several persons from Kingston to Montego Bay, including the

Minister of Home Affairs, the Honourable Roy McNeil, Member of Parliament for the area Dr. Herbert Eldemire, Chief of Staff of the Jamaica Defence Force Brigadier Paul Crook, Commissioner of Police Noel Crosswell, Senior Superintendent of Police Vincent Bunting, Superintendent of Police George Mullen, several top CID detectives and a detachment of the recently established Police Striking Force. Later that day, nine motor units of the JDF which included two armoured vehicles, travelled to Montego Bay and a large contingent of soldiers were deployed to assist the police in the planned response to the events. Police officers were deployed from neighbouring parishes including Trelawny, Westmoreland and Hanover. Civilians with private planes, namely Bobsie Henry and L.L. McGhie, joined the hunt. Private parties of civilians joined in the search for the wanted Rastafarians. One such party from Flower Hill was led by Holness Rhoden, who, it is said, shot one of the wanted Rastafarians (see Randal Mullings, *"The Demons of Rose Hall"*, **Daily Gleaner**, 28 March 1964, p. 4).

The first media reports out of the incident called it an *"uprising"*. That was the term used by both JBC and RJR. The then Jamaica Labour Party-led Government took great offence at the description of the incident as an *"uprising,"* as it saw the use of that word as anti-Government.

Then Prime Minister Alexander Bustamante was flown to Montego Bay where he issued a statement calling for calm and explained that the situation was not an *"uprising"* but the outcome of a robbery attempt on a gas station (**Voice** newspaper, April 20, 1963). The then Minister of Development & Welfare Honourable Edward Seaga wrote to the Chairmen of both **JBC** radio and **RJR** threatening that he would restrict broadcasts if they did not correct their

“irresponsible statements” that the Coral Gardens affair was an *uprising*. This led the JBC to issue an apology on April 29 for using the word *“uprising”*.

The **Voice** newspaper also reported that as at April 20, 1963, one week after the events, the police had already arrested over 160 Rastafarians following raids in four parishes. Rastafarians were also detained in Falmouth, Lucea and Cambridge. It is to be remembered that by that time, the police had already shot and killed three (3) of the wanted men, and had already arrested Leabert Jarrett on April 11, and Clifton Larman and Carlton Bowen on April 13, 1963 who were two of whom were later hanged.

In an article published in the **Sunday Guardian** of August 11, 1963 titled ***“Give the Rastas a Fair Deal!”***, the author, Harvey Lewis explained the general attitude of Jamaicans towards the Rastafari. He wrote that:

“[t]he image of the Rasta, as the average Jamaican sees him, is that of ‘a dirty, unkept no-good’ whose sole desire is to cause civil strife. No attempt is made to understand his point of view. In fact, he is not entitled to one. He is therefore castigated by [all and] sundry, and is the convenient scapegoat for all the crimes and acts of violence committed in the country. The Rasta is hunted down at every turn, he is therefore always on the run. The scales of justice have been heavily weighed against him, it is as if the world of Jamaica, were against him.”

As a result of the passage of time and the substantial loss of court records for the relevant period, Jamaica will perhaps never know exactly how many Rastafari, including all the Rastafari families, were victimized during the tragic events of Coral Gardens and the bloody aftermath.

If within one week of the events in Coral Gardens over 160 Rastafari were arrested, and the operation against Rastafari continued for several weeks, then one could reasonably estimate that many more were rounded up and imprisoned. In addition, many hundreds of Rastafari opted to cut their locks and shave off their beards rather than face the oppressive consequences which would otherwise have befallen them.

Those persons are also victims of the Coral Gardens incident, having been forced by unlawful threats, fear and intimidation, to cut their locks and shave their beards against their free will. Many of them, however, remain unknown or forgotten, having died some time ago, or no longer remembered as a result of the tide of history.

This report recognizes those Rastafarians who suffered discrimination and suppression and who were not involved and who in no way participated in any of the unlawful activities relating to the Coral Gardens events 1963.

THE TRIAL

Clifton Larman, Carlton Bowen and Leabert Jarrett were tried and convicted in the St. James Circuit Court for the murder of Corporal Clifford Melbourne. Seven (7) witnesses testified on behalf of the Crown, only one of whom purported to identify Mr. Jarrett.

Their appeal against conviction was heard by the Court of Appeal, over the period 11th March to 21st May 1964. The judges who heard the appeals were Justices of Appeal Duffus (the President); Lewis and Henriques. The appeals of Messrs.

Larman and Bowen were dismissed, while the appeal of Mr. Jarrett was allowed, and accordingly he was acquitted.

The Court of Appeal referred to the Messrs. Larman, Bowen and Jarrett as members of the “*Rastafarian cult*”. In the judgment of the Court of Appeal, there appears a passage which reads:

“The three appellants were jointly charged on an indictment for the murder of Clifford Melbourne, on April 11, 1963. Melbourne was a detective corporal of police stationed at Montego Bay and was one of a police party of about fourteen men who were searching for about five men believed to be members of the Rastafarian cult, who early in the morning of April 11, 1963, had burnt down a gas station at Coral Gardens and hacked to death a man named Marsh who was staying at the Edge Water Inn Motel close to the gas station.”

The Court of Appeal judgment is reported at (1964) 8 J.L.R. 461.

THE LEGACY – AMENDMENTS TO THE GANJA LAW

Pre- Coral Gardens

Anti-ganja laws came about in Jamaica from as far back as July 1913. The International Opium Convention ratified at The Hague on the 23rd January 1912, was then incorporated into domestic law. It is by this means that the importation and growing/cultivation of ganja became criminal offences. On conviction the punishment for importation and growing/cultivation was a fine up to L100 or a period of imprisonment not exceeding 12 months.

Several amendments were introduced after 1913. With each amendment came an increase in severity of the penalties, or a creation of new offences. Thus, the 1941 amendment, **Act No. 24 – 1941**, for example, introduced mandatory imprisonment; while the 1942 amendment, **Act No. 22 – 1942**, criminalised the possession, use and dealing of several other substances and their derivatives, which up to then, were not included in the existing law. It also introduced other offences specifically relating to the “*possession of any pipes or other utensils for use in connection with the smoking ... of ganja*”. This amendment created an elaborate regime for the lawful exporting/importing of ganja; thereby rendering illegal, any act or conduct falling outside this regime.

By the 1961 amendment, the penalty for possession, or smoking of ganja, was a **mandatory** imprisonment. However, the court had a discretion to impose a term not exceeding 12 months, along with a possibility of a fine of L100 fine. For cultivating, selling or otherwise dealing, the mandatory term of imprisonment was increased to five years, and subject to the imposition of a fine of unlimited sum. Such was the state of anti-ganja law in Jamaica in April 1963 at the time of the Coral Gardens tragedy. By then the legislation had been formally termed the Dangerous Drugs Law.

The increase in severity of penalties in the ganja laws over time was the State’s response to social upheavals and disaffection in the society. The Coral Gardens incident provided yet another opportunity for further amendment to the Dangerous Drugs Law.

Post-Coral Gardens

Within seven months of the Coral Gardens incident, a Bill entitled "*An Act to Amend the Dangerous Drugs Act*" was introduced in the House of Representatives by the then Minister of Health, Dr. Herbert Eldemire. On the second reading of the Bill, Dr. Eldemire's opening remarks are recorded in *Hansard* as:

"This Bill is designed to do three things, mainly (1) making it an offence for owners or occupiers of premises to use or permit to be used their premises for the cultivation of ganja; (b) (sic) increasing the penalties for the possession of ganja and for the cultivation, selling or otherwise dealing in ganja; and (c)(sic) providing for the seizure and forfeiture of vehicles used in the commission of any offence against the Principal Law."

As the Minister developed his submission to Parliament, he is reported to have said:

"I think there is absolutely no doubt about it that ganja is a harmful and dangerous drug; and I would like to quote. It says here from the University of the West Indies – they did a series of experiments not only on the human being but on animals. And it is very interesting that they gave the ganja to some cats and dogs: and it is very interesting when they gave the ganja to the cats there was a marked change in attitude of the animals. In the cats for example they lost all sense of fear and attacked dogs."

(Laughter in the House)

Laughter erupted in the House of Representatives. The Minister assured the sitting Members of the seriousness of the matter regarding drug use, particularly by teenagers, and then continued:

" You know, Sir, it is accepted by all the authorities that I have been able to read that the danger in ganja is its immediate effects, which induce violent psychosis and violent reaction: and these are its immediate effect. We are not talking about long-term effects; the long term effects create in a person, indolence, laziness; and you can well see the social repercussions of this."

The Parliamentary Opposition was not opposed to the increase in the severity of penalties, but strenuously opposed to sentence of a mandatory nature that would exclude judicial discretion upon conviction. The then Leader of the Opposition, the Rt. Hon. Mr. Norman Manley, in his submission said:

"It is my submission that in principle all Bills and all Measures providing for mandatory sentences are immediately to be subjected to the severest scrutiny to see whether there is any public harm or public concern that could justify such a Measure."

"And where you are going to deal with a drug like ganja and make it mandatory to send a person to prison for no less than five years for cultivating ganja, without any regard whatever to the circumstances under which it is grown, then I think the country has a right to be told what is the extreme danger involved in this particular thing which warrants so severe a penalty."

"It is quite obvious that tobacco is a dangerous drug. But before one considers making it a criminal offence to smoke or to grow tobacco, you would have to come with a very, very powerful case indeed."

"Mr. Speaker let us look at something which more nearly resembles ganja in its effects, namely alcohol. I listened to all the Minister had to say about ganja and what we know medically about it. But for the life of me I found it difficult to be sure he was not talking about alcohol. Alcohol creates hallucinatory states. It creates mental disturbances of a grave order. It causes enormous euphoria, which only means to feel good to some people. That it causes some people to be violent in the extreme, is notorious. And the Minister of Health must know how much damage is done to a community by the indiscriminate or unwise use of alcohol."

"... the Minister of Health is telling us that he believes that ganja is so dangerous that he must make this extraordinary mandatory penalty"

And Mr. Florizel Glasspole a Member on the Opposition side (who years later became Governor General of Jamaica) submitted:

"Mr. Speaker, we are not suggesting for one moment that there should not be an increase in the penalties. I for one, am one who believes that many heinous crimes have been committed under the influence of ganja, though many persons disagree with me. But it cannot be right that mandatory punishment be meted out to a first offender."

The Leader of the Opposition went on to describe the proposed amendments as "*a monstrous outrage*".

In contrast, a Member on the Government side (Mr. Jackson), who naturally supported the proposed amendment, expressed himself this way:

"I believe that the Minister should have put in the Bill that anybody convicted for the said offence should get the cat-o-nine tails."

As the debate in Parliament continued, Government and Opposition Members traded barbs, and each side ascribed to the other, political motives of various types. In some of the contributions to the debate there were references to previous incidents, in which the Members opined that ganja was a causative factor. For example, the then Minister of Agriculture, Mr. Allen is recorded in *Hansard* as saying:

"There are many persons in the grave today who would not have been there if somebody else had not smoked ganja and killed them. We have had the stories of Whoppy King. Do we want more Whoppy Kings. We have had reports of the dastardly act which was committed in Leicesterfield, a district in which I lived for many years. Nobody in Jamaica could say that he has not got good reason for believing that ganja puts people in a frame of mind for committing crimes."

Another example is provided by a Member on the Government side who supported the Bill; in a clear reference to the Coral Gardens incident, he said:

“Mr. Speaker, look what happened recently in St. James when officers of the Police Force lost their lives through the smoking of ganja by a gang of men.”

And a further example is found in the utterance of the then Prime Minister: In his rejection of a call by the Opposition for the setting up of a committee to enquire into the use of ganja and its effects, again in an obvious reference to Coral Gardens, said in Parliament:

“All of us know the effect of ganja. There will be no enquiry, none whatever. Just ask the Police wives that have lost their husbands about the effect of ganja recently in another parish.”

According to *Hansard* the then Prime Minister said:

“Mr. Speaker, I do not believe in a long debate, nor multiplicity of words. This Government will use every authority at its command to have ganja smoking, growing, trading stamped out.” (Government applause)

“They can talk all they want; the Bill is going through as it is.”

With the Government having a majority in the House of Representatives, the Bill was passed. It was subsequently passed in the Senate, and eventually received Royal Assent on the 2nd March 1964. It was **Act No. 10 – 1964**, and it came into force on the 5th March 1964.

By this amendment to the Dangerous Drugs Law, section 22 prescribed that-

“(2) Any person who is guilty of the offence of cultivating or selling or otherwise dealing in ganja shall on a first conviction for such offence be imprisoned with hard labour for a term not less than five years and not exceeding seven years and on a second or subsequent conviction for such an offence be imprisoned with hard labour for a term not less than seven years and not exceeding ten years.”

And --

“(2A) Every person who is guilty of the offence of being in possession of ganja shall on summary conviction before a Resident Magistrate, in the case of a first conviction for such offence, be imprisoned with hard labour for a term not less than eighteen months and not exceeding three years and in a case of a second or subsequent conviction for such offence, be imprisoned with hard labour for a term not less than three years and not exceeding five years.”

Opposition Member Florizel Glasspole was prophetic when, during his contribution to the debate, he argued that such a law would make criminals of the young people. He said:

“There should be no law that tends to make criminals of our people. And that is what I say on this Bill. It did not intend to but it will make criminals of them because you cannot correct a young fellow by sending him to prison for 5 years and he is mixed with hardened criminals who will make him more a criminal than he ever was before.”

And so it was, that under the 1964 amendment, hundreds of Jamaicans were mandatorily imprisoned for smoking and possession of ganja. The **Jamaica Law Reports** for the period 1964 – 1972 are replete with examples.

It was the 1972 **Law Reform (Mandatory Sentences) Act 1972**, that abolished mandatory terms of imprisonment as sentences for breaches of specified laws, such as the Dangerous Drugs Law.

CORAL GARDENS -- EXPERIENCES RECOUNTED

Some of the Rastafarians who lived through the Coral Gardens incident and its aftermath, shared their experiences with the Office of the Public Defender. A summary of each individual's account, is recorded as given by him/her.

Ms. Gloria Steele

She knew Rudolph Franklyn as a Rasta without locks, who sold food and coal. When he returned from prison, he said he had plastic tripe and that whenever he start to swell, he was going to die. In April 1963, after the incident with Rudolph, she awoke to see police at her gate, asking where the Rastas were. According to Ms. Steele, she was at the Barnett Street Police Station when Bustamante made the order for all Rastas to be brought in. She had gone to the Station to look for her brethren. There she saw some Rastas with blood on them bleeding. Out of fear she hid her sons, and then organized for their hair to be shaved, as police and civilians were searching for Rastas. Ms. Steele related that she delivered a baby during that time.

She had to wrap up her Kingman (i.e. her spouse) in a mattress in a corner of the room for three days so as to avoid him being found by the police. She witnessed Rastas being, beaten and door to their houses being kicked down. Her *Kingman* was eventually arrested on April 27, 1963 on Barnett Street. He was charged with disorderly conduct and given his own bail. He went to Court on April 28 and sentenced to pay a fine of £5.

Mr. Isaac Wright

Mr. Wright lived in Granville St. James. On Holy Thursday, April 11, 1963 he went to visit a friend, Hector, and heard that police were down the road. He went home. His landlord and his wife were afraid for him to remain and suggested that he trim, so he left his home. On Good Friday, April 12, he heard that police had taken his friend Hector from his house. He went to wake up another Rasta brethren to warn him but discovered that the brethren had already trimmed. He asked the brethren to put him up but the brethren was afraid, so he (Issac) slept in a cave that night. The following night he slept in Cedar Spring, St. Elizabeth because he preferred to be arrested in St. Elizabeth rather than Montego Bay. However in Cedar Spring, civilians threw bottles and stones at him and hit him. Men threw rope on him but he escaped and slept by another brethren's home. The following morning police and civilians came to the brethren's home. Police boxed him all over, grabbed his beard and hit him in his face. He was arrested and taken to Balaclava Police station, then to Black River Police station. He was taken to court in Black River then to Balaclava for trial for unlawful possession of his brethren's gas lamp, cooking fork and measuring tape. He was eventually acquitted.

Mr. Cleveland Brown

Mr. Brown said that he was unlawfully arrested, falsely imprisoned, maliciously prosecuted, ultimately sentenced 15 months imprisonment for offensive weapon. Whilst serving his sentence at Tamarind Farm Prison, his hair was forcibly trimmed by the authorities. Mr. Brown said that he witnessed other Rastafarians being beaten.

Mr. Edward Fray

On his account, Mr. Edward Fray experienced fear and prejudice from his own family, and voluntarily trimmed his hair to avoid persecution. His house was raided by the police, and he lost property. He eventually lost his job.

Mr. Herman Graham

Mr. Graham described how he was taken to the Barnett Street Police Station, where he was beaten and verbally abused by the police. He said he was falsely imprisoned and maliciously prosecuted. He was tried and acquitted, after having spent twenty-two (22) days in custody.

Mr. Roy Nelson

Mr. Nelson contends that he was taken to the Barnett Street Police Station, where he says he was beaten in the head by the police. There he witnessed police abusing Rastas who were also beaten. He was charged for ganja, pleaded not guilty. However he was convicted and sentenced to fifteen (15) months imprisonment.

Mr. George Williams

He said that the police came to his home, and there they physically abused him. According to Mr. Williams, the police officers cut his hand in two places, after which he was taken to the Barnett Street Police Station. He described the deplorable conditions under which the Rastafarians were being held at that Station, and the harsh treatment experienced at the hands of the police officers. Mr. George Williams said that he personally witnessed the then Prime Minister, Alexander Bustamante, telling police to beat them, as what the jail could not hold, the morgue would. He said he was detained at the Police Station for approximately

four weeks, and he is firmly of the view that he was convicted and sentenced without trial. Mr. Williams said that he was sentenced to a hefty fine. Mr. Williams requested repatriation to Africa as part of any compensation.

Mr. Ronald Carr

Mr. Carr complained that he was arrested by the Police whilst he was in the Time-and-Patience community in the parish of St. Catherine, two weeks after the Coral Gardens incident. During his period in custody he asserts that he was beaten all over his body and on his head, by police officers.

He was subsequently taken to the Linstead Police Station, and then to the Spanish Town Police Station. Mr. Carr stated that his locks were removed by a barber on the instructions of the police, and that he witnessed the same thing being done to two other Rastafari brethren. He was charged for vagrancy and though he was acquitted, he contended that the comment to him by the presiding Magistrate, to the effect that he would be given an indeterminate sentence, was reflective, of the general permissiveness of unlawful conduct towards Rastafarians.

Mr. Stanford Duffus

This citizen explained that in April 1963, the police were actively engaged in the demolition of Rasta camps on Spanish Town Road. He said that during the same week of the Coral Gardens incident, whilst driving his van on his way from the Coronation Market (which is located in Kingston) en route to the community of Waterhouse, he had the misfortune of being stopped by the police. According to Mr. Duffus, he was verbally and physically abused by the officers. He said that he witnessed police brutality to other Rastafarians on the same occasion. His vehicle, was seized and towed away. The items in the van were removed and it was

eventually scrapped. Mr. Duffus spoke of a general disrespect towards Rastafarians in society, then and now.

Mr. Noel Bennett

Whilst Mr. Bennett was living at a place known as Rasta Camp in Hanover in 1963, the police entered his house and hit him on his toes with their guns. Mr Bennett related that he was taken to the Green Island Police Station where he and other Rastafarians were jailed. While he was there with other Rastafarians, he said he not only received repeated beatings, but he was witness to the same happening to other Rastafarians in the police lock-up.

He was tried and found guilty of false indoctrination and of molesting people. He was sentenced eighteen (18) months in prison, which he served at both the General Penitentiary and the Spanish Town prisons. Whilst at the latter, he openly declared his religious belief and was beaten by a Correctional Officer for having done so. During the eighteen months incarceration, Mr. Bennett's farm was destroyed, and hence he lost his only source of income.

Mr. Winston Ferguson

On Good Friday, 1963 Mr. Ferguson visited his mother in Mount Salem, St. James. As a Rastafarian, he had to hide from police. He hid behind a curtain, but the police searched and found him. They arrested him, roped him, threw him in a jeep and took him to Barnett Street Police Station. He and the other Rastafarians there, had to take turns in sleeping, as the jail cell was so small. When they asked for water, the police turned the hose on them. He was in custody for eleven (11) days on a ganja charge. He was found guilty at Montego Bay Resident Magistrate's

Court and sentenced to two years imprisonment, which he served at Spanish Town Prison and Tamarind Farm.

Mr. Hastley Harris

At about 6:00 am on Good Friday 1963, Mr. Harris heard the news on radio of Prime Minister Alexander Bustamante's utterances regarding Rastafarians. Citizens grabbed his two Rastafari brethren, beat them and took them away. As for Mr. Harris, he was seized, tied up, beaten by civilians, and placed in a police truck, and taken to the Barnett Street Police Station.

There he and other Rastafarians were beaten by the police officers, until the batons broke. Up to the time of sharing his experience, Mr. Harris said that he still suffered from chest pains. He explained that he was taken to Falmouth and charged with obstructing justice. The Judge threw out that charge, but he was subsequently charged for breach of public order and acquitted. He was in custody for seven days at Falmouth police lock-up, and two days at the Barnett Street Police Station.

Mr. Eglan Frazer

Mr. Frazer described how, on Good Friday, 1963 he was assaulted by a group of police officers and civilians trying to arrest him. He escaped and hid in bushes. The police shot him in his neck in the bushes and he was taken to the Savanna-la-Mar Hospital, then to Savanna-la-Mar Police Station. He was taken before the Whitehouse Court but eventually sent home. He was arrested again in December 1963, but subsequently released without being charged.

Mr. Enos Aldine

On Good Friday, 1963 police went to Wakefield, Trelawny and into a Rasta community called Thatch Town. There the police approached Mr. Aldine. They kicked him, beat him, and dragged him on the ground towards a police Jeep, along with another a Rasta brethren. Police cut up his bongo drum. He was taken to Wakefield Police Station, and then to a Montego Bay police station, where a water hose was turned on him and the other Rastas. He was subsequently taken to the Falmouth Police Station, in Trelawny, where he was charged for indecent language. Mr. Aldine was tried and convicted in Falmouth Resident Magistrate's Court, and sentenced to six months imprisonment. He was incarcerated at St. Catherine District Prison in Spanish Town. Two years before Coral Gardens incident Mr. Aldine had served one year in prison for ganja. His common law partner who was pregnant at the time, was jailed then too, consequently his son was born in jail.

Mr. Orlando Walters

On August 23, 1963 Mr. Walters was being questioned at Central Police Station in Kingston, when 37 police officers came there and to take him away to Elletson Road Police Station, where he was falsely charged for ganja. He was sentenced to 18 months imprisonment. Whilst in prison his hair was cut off against his wish.

Mr. Caswell Shakespeare

Mr. Shakespeare was set upon and seized by the police on April 11, 1963 whilst he was at Salt Spring District, St. James. He was taken to Barnett Street Police Station where he was held for 18 days. He was charged for breach of public order and sentenced to pay £25. He lost income and was separated from his family.

Mr. Walter Brissett

Mr. Brissett was arrested in Salt Spring District and taken to Barnett Street Police Station where he was beaten and locked up for 29 days. He was charged for possession of ganja and resisting arrest. No ganja was tendered into evidence. He was sentenced to 15 months imprisonment. He suffered loss of income and was separated from his wife for that period.

Mr. Ansford Moodie

On Holy Thursday, 1963 Mr. Moodie was in Mount Salem, St. James. Out of fear, he told his wife to take the children to the neighbour's house. Not long after, the police showed up at his house. They kicked down his house door and destroyed his property. The policemen verbally and physically abused him and carted him off to the Barnett Street Police Station, and then to Lucea Police Station where he was subject to more beatings. He was there for three weeks. He was hosed. He was subsequently freed at court.

Mr. Roy Tennant

On April 11, 1963 Mr. Tennant was in Mount Salem at his uncle's house. His uncle was a Rasta. Police came and beat the uncle, broke his leg and roped him up. That was witnessed by the uncle's wife and children who were crying. The streets were crowded with civilians, all ready to kill the Rastas. He witnessed Rastas covered in blood. His uncle was locked up in jail for three months, charged for possession of ganja. He was sentenced to 18 months which he served at Tamarind Farm. His uncle could not walk properly for the rest of his life as his right leg was permanently damaged.

His uncle died in 1971 and he is claiming compensation on behalf of his uncle.

Ms. Leila Samuels

Ms. Leila Samuels lived with her spouse, Eric England, on Kings Street, Montego Bay in 1963. For her, Mr. Eric England is her "*Kingman*". Living with them were her Kingman's nephew and one of the Kingman's brethren.

Ms. Samuels heard on the radio that rewards were being offered for Information on the whereabouts of Rastafarians – one guinea a head. On April 12, 1963 she saw the police drag her Kingman out of bed. He was taken to Barnett Street Police Station. Later the nephew and the brethren were also arrested and beaten. She witnessed the conditions at Barnett Street Police Station. Her partner was jailed for 13 days. She suffered loneliness, hunger and fear. Her Kingman was charged for disorderly conduct and sentenced to £2 fine. He suffered stomach problems, foot injuries and was paralyzed in 1975.

Ms. Miriam Walker

She was three years old in 1963, living with her Rasta parents at Railway Lane, St. James. She said witnessed the police come to the yard and beat her father and her mother who was pregnant. Both were handcuffed and taken to Barnett Street Police Station, then to Coral Gardens Police Station. She said that police destroyed her father's shop. Her father spent six days in lock-up while her mother spent three days in lock up. As a result of internal bleeding her mother lost the baby. Her father suffered a broken arm and his locks were cut off in the lock up. He died in 1989 and her mother in 2009.

Mr. Everald Warren

On April 12, 1963, he lived on King Street, Montego Bay. He had to go into hiding for two weeks due to reports against Rastas.

Mr. Alan Bennett

Mr. Bennett was, on April 15, 1963 in Green Island, Hanover. He was gun butted by police, thrown in a jeep and taken to Green Island Police Station, where he was beaten repeatedly. After seven days he was alleged to have had ganja, and thus, taken to court. He sentenced to three years imprisonment. He was thereafter taken to Spanish Town Police Station where he was again beaten and then transferred to Tamarind Farm Prison where he served eighteen months.

Mr. Frank Gordon

Mr. Gordon was living in Wakefield in Trelawny. On April 12, 1963 police soldiers, and civilians amassed at his gate. They accosted, and beat him with gun butt and bayonet. He bled all over. They took him to Wakefield Police Station, and then to Falmouth Police Station where he was again beaten. From there he was taken to Barnett Street Police Station. Mr. Gordon was charged and taken to court where he was sentenced to two months imprisonment. He served part of the sentence at St. Catherine District Prison, and the other part at Tamarind Farm.

It was not only Rastafarians who shared their experiences. Other persons reminisced and recounted their observations during the throes of the Coal Gardens incident, as the effect spread across the country. Some of the testimonies are recorded below.

Mr. Aston Garell

Mr. Garell said that he witnessed Prime Minister Alexander Bustamante giving the order to “*bring in Rastas*’

Mr. Luther Irving

He witnessed Rastas in lock-ups at Barnett Street Police Station. He said the Rastas looked sad and thirsty and were begging for water.

Ms. Erica Johnson

She witnessed a Rastafarian by the name of Bongo Rashi being arrested and abused. She saw her brother, who was a barber, helping Rastas to voluntarily trim. Since 1963, Holy Thursdays have had bad memories for her -- *up to this day*.

Sylvester Sawyers

On Good Friday, 1963, he was living in the area of a Rasta camp. He witnessed first-hand, the rounding up of Rastafarians by police. He had to hide to avoid the police, and so he re-located to Westmoreland.

Ralston Donaldson

He was not in St. James on that fateful Friday in 1963, because he had left on Holy Thursday to visit his grandmother in Hanover, and returned to Montego Bay the day after Good Friday. Ralston Donaldson had three children with Rudolph Franklyn’s daughter, so he knew Rudolph Franklyn. He said that Franklyn was a Rastafari sympathizer, but not a Rastafarian.

Alric Denham

On April 11, 1963, he was travelling from Kingston to Montego Bay on the train. He went to the hospital and saw several dead Rastas on the ground. He saw a truck at the police station with bound Rastas and police using bayonets to poke Rastas. He saw bundled Rastas fall from the truck. He saw Rastas being hosed.

Trevor Craig

On April 12, 1963 he saw Rastas being hosed and beaten. They were tied up and bloody. For many years after, he had nightmares.

Sonia Edwards

In 1963 she lived in a Rasta commune in Granville, St. James where the Rastas were tradesmen and "*combhead*". On April 12, 1963 the police came, rounded up the Rastafarians in the commune, and ordered them to lie flat on the ground. She witnessed the police take a Rasta off the pit-toilet and beat him. She saw a policeman stole £4 from one Rasta. She saw her stepmother being verbally abused. Many Rastas fled into hiding, and many cut their locks. She went to take clothes for the Rastas at the police station but the police refused to accept clothes. She witnessed a Rasta named Banjan Roper being beaten by police officers.

Cleavon Hamilton

In 1963 he was living in Glendevon, Montego Bay. He was a member of the Ethiopian World Federation Local 32. He became afraid based on the news reports he was hearing on the radio, of incidents involving Rastafarians; so his family removed all pictures of Hiale Selassie from the house. The President of the organization, Aubrey Brown, was detained, beaten and trimmed.

Senior Superintendent Everal Rose (Retired)

In April 1963 this police officer was stationed at Barnett Street Police Station. The Divisional Headquarters and the Area Headquarters were co-located at Barnett Street. On April 11, 1963 he was at the Station when he heard about what happened at Coral Gardens. There was a large crowd at the Police Station in the afternoon, including many Rastafarians who were detained. As the day progressed, more Rastafarians were brought in, as a result of what happened at Coral Gardens. They were detained for various reasons, questioned, processed and put in cells. The Station was filled to its capacity and Rastafarians therefore had to be taken to other Police Stations in Hanover, Trelawny, Westmoreland and St. Ann. Retired Superintendent Rose does not recall seeing Prime Minister Bustamante at the Station nor does he recall seeing any Rastafarians being beaten or sprayed with water.

Special Sergeant James Marshall (Retired)

Retired Sp. Sgt Marshall was stationed at the Barnett Street Police Station in April 1963. He was involved in the confrontation between the police and the Rastas at Coral Gardens. He that he witnessed the killing of several persons, including a police officers and Rastafarians. Upon his return to the Police Station he saw Prime Minister Alexander Bustamante; Minister of Home Affairs, Mr. Roy McNeil; and Commissioner of Police Mr. Andrew Locke. He saw Prime Minister Bustamante stand on the staircase and say:

"All Rasta man must come in.!" After that civilians began to carry Rastafarians in to the Station. They would bound the Rastafarians with rope, put them in motor vehicles, drive to Barnett Street, and simply throw them out on to the street in front of the Police Station.

In a short time the lock-up became filled with Rastafarians. Some had to be moved to neighbouring police station lock-ups which also soon became filled. He stated that up to that point, the police officers had not received any instructions from their superiors as to how to proceed. Some of the Rastafarians were charged, others were not. The following day Sp. Sgt Marshall received instructions from Superintendent Ricketts, directing him to go to Amblin in Trelawny *"to seek Rasta to bring them into the station"*. He witnessed barbershops filled with Rasta men cutting off their locks. He said he did not see any Rastafarians being beaten by police or civilians. However, he recalled some having wails on their skin when they arrived at the station. The Commissioner of Police assembled the police in groups to search different areas. He says they searched many men, not only Rastafarians.

Special Corporal Clinton Somers (Retired)

On April 12, 1963 he was at home when he heard about what had happened in Coral Gardens from a neighbour. He went to Barnett Street Police Station where he saw a crowd of police officers talking about Coral Gardens. Two civilians offered to fly their planes to assist in the search for the Rastas.

He heard that Superintendent Scott had been killed, so he went to the hospital to see him. Upon his return to the police station, he observed that police officers were agitated, and boisterous. They were loud saying they wanted to go out and hunt down those involved in the killing of their colleagues. He witnessed Prime Minister Bustamante, the Minister of Home Affairs McNeil and Commissioner of Police Locke arrive at the station. He described how these three officials addressed the police officers at the Station. According to the retired Special Corporal,

Bustamante said “*bring in all Rasta, anything with beard, even if it's ram goat!*” at which they all laughed.

Retired Special Corporal Somers said that Rastafarians were being brought into the Station at the time. He received information from a group of civilians that a group of Rastafarians were celebrating the fall of Babylon in Canterbury. He and other police officers rushed to the location, where they arrested six Rastafarian men and charged them for breaching the public order. They had no attorneys and were convicted and sentenced.

He said many Rasta men from all directions, were brought in by soldiers and civilians. According to Special Corporal Somers, he saw a Rastafarian man named Leon Pinnock (deceased), and whom he knew, being hit in the head with a baton by Constable Leonard Birch (also deceased).

Special Corporal Somers said that he did not hear Prime Minister Bustamante say that they were to bring in all Rastas dead or alive.

CONSTITUTIONAL RIGHTS ANALYSIS

Chapter III, of the Jamaica Constitution 1962 entitled *Fundamental Rights and Freedoms*, by section 13 guarantees:

“Whereas every person in Jamaica is entitled to the fundamental rights and freedoms of the individual, that is to say, has the right, whatever his race, place of origin, political opinions, colour, creed or sex, but subject to respect for the rights and freedoms of others and for the public interest, to each and all of the following, namely-

(a) life, liberty, security of the person, the enjoyment of property and the protection of the law;

(b) freedom of conscience, of expression and of peaceful assembly and association; and

(c) respect for his private and family life,”

The provisions of Chapter III afford protection of those rights and freedoms which are “...*subject to such limitations of that protection as are contained in those provisions being limitations designed to ensure that the enjoyment of the said rights and freedoms by any individual does not prejudice the rights and freedoms of others or the public interest.*”

The fundamental rights and freedoms secured by the constitution and which are enforceable are:

- Freedom of the person (right to personal liberty) (s. 15)
- Protection of the freedom of movement (s. 16)
- Protection from inhuman treatment (s. 17)
- Protection for privacy of home and other rights (s. 19)
- Right to a Fair Trial (s. 20)
- Protection of freedom of conscience (s. 21)
- Protection of freedom of expression (s. 22)
- Protection of freedom of assembly and association (s. 23)
- Protection from discrimination (s. 24)

The protection afforded for freedom of the person (The right to personal liberty)

Section 15(1) of Chapter III of the Jamaica Constitution 1962 safeguards, as follows:

15.-(1) No person shall be deprived of his personal liberty save as may in any of the following cases be authorised by law-

- (a) in consequence of his unfitness to plead to a criminal charge; or*
- (b) in execution of the sentence or order of a court, whether in Jamaica or elsewhere, in respect of a criminal offence of which he has been convicted, or*
- (c) in execution of an order of the Supreme Court or of the Court of Appeal or such other court as may be prescribed by Parliament on the grounds of his contempt of any such court or of another court or tribunal; or*
- (d) in execution of the order of a court made in order to secure the fulfilment of any obligation imposed on him by law; or*
- (e) for the purpose of bringing him before a court in execution of the order of a court; or*
- (f) upon reasonable suspicion of his having committed or of being about to commit a criminal offence; or*
- (g) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare; or*
- (h) for the purpose of preventing the spread of an infectious or contagious disease; or*
- (i) in the case of a person who is, or is reasonably suspected to be, of unsound mind, addicted to drugs or alcohol, or a vagrant, for the purpose of his care or treatment or the protection of the community; or*

(j) *for the purpose of preventing the unlawful entry of that person into Jamaica, or for the purpose of effecting the expulsion, extradition or other lawful removal of that person from Jamaica or the taking of proceedings relating thereto; or,*

(k) *to such extent as may be necessary in the execution of a lawful order requiring that person to remain within a specified area within Jamaica or prohibiting him from being within such an area, or to such extent as may be reasonably justifiable for the taking of proceedings against that person relating to the making of any such order, or to such extent as may be reasonably justifiable for restraining that person during any visit that he is permitted to make to any part of Jamaica in which, in consequence of any such order, his presence would otherwise be unlawful.*

Section 15(5) also provides that:

“(5) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorizes the taking during a period of public emergency of measures that are reasonably justifiable for the purpose of dealing with the situation that exists during that period of public emergency.”

It is a cardinal principle of English constitutional law that every imprisonment is *prima facie* unlawful.⁷⁸ Therefore, any deprivation of personal liberty is unconstitutional, unless one of the above circumstances exists, the burden therefore being on the State to show that such circumstances existed. Section 15(4) expressly stipulates that: *“Any person who is unlawfully arrested or detained by any other person shall be entitled to compensation therefor from that person.”*

In the Guyanese case of *Ramson v Barker and Atty Gen* 6 WIR 269 it was held that the concept of personal liberty contemplated freedom of movement and also inviolability of the person against all unjustifiable acts of trespass.

From the material received none of the complainants was deprived of his personal liberty in any of the circumstances and limitations of section 15 (1) (a) – (k) of the Constitution.

Having analyzed the material collected it appears to the Public Defender that, initially, over 160 Rastafarians living in the western parishes of Jamaica were ‘rounded up’ into police custody. The facts proved in the case of *R v. Larman, Bowen and Jarrett* demonstrated that the attack on the gas station and on the police was limited to a handful of men who appeared to be Rastafarians and did not involve the Rastafari community as a whole.

The essence of the wrong is that the Rastafarian community paid and suffered for the wrongs perpetrated by the band of bearded men at Coral Gardens.

Protection of freedom of movement

According to section 16:

“16.-(1) No person shall be deprived of his freedom of movement, and for the purposes of this section the said freedom means the right to move freely throughout Jamaica, the right to reside in any part of Jamaica, the right to enter Jamaica and immunity from expulsion from Jamaica.

(2) Any restriction on a person’s freedom of movement which is involved in his lawful detention shall not be held to be inconsistent with or in contravention of this section.

(3) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision--

- (a) which is reasonably required in the interests of defence, public safety, public order, public morality or public health; or*
- (b) for the imposition of restrictions on the movement or residence within Jamaica of any person who is not a citizen thereof or the exclusion or expulsion from Jamaica of any such person; or*
- (c) for the imposition of restrictions on the acquisition or use by any person of land or other property in Jamaica; or*
- (d) for the imposition of restrictions upon the movement or residence within Jamaica of public officers, police officers or members of a defence force; or*
- (e) for the removal of a person from Jamaica to be tried outside Jamaica for a criminal offence or to undergo imprisonment outside Jamaica in execution of the sentence of a court in respect of a criminal offence of which he has been convicted.*

Any denial or prevention of the freedom of movement is unconstitutional, unless one of the above circumstances exists, the burden therefore being on the State to show that such circumstances existed.

It is plain that those 160 Rastafarians who did not participate in the unlawful actions at Coral Gardens but who suffered incarceration were deprived of the right of freedom movement as safeguarded by the provisions of section 16 (1) and (2) of the Constitution which provide for freedom of movement and freedom to move about Jamaica.

The imprisonment of that group appears to have been the result of their simply being Rastafari, or appearing to be Rastafari and accordingly could not be said to

be in the interests of defence, public safety, public order, public morality or public health. Their imprisonment was arbitrary and unlawful and contrary to the protection offered by the Constitution.

Protection from inhuman treatment

Section 17 provides--

- “(1) No person shall be subjected to torture or to inhuman or degrading punishment or other treatment.*
- (2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question authorise the infliction of any description of punishment which was lawful in Jamaica immediately before the appointed day.”*

In *Doris Fuller (Administratrix Estate Agana Barrett (deceased) v The Attorney General* (1998) 35 JLR 525 the Honourable Mr. Justice Downer JA asserted, as follows; at 544, *“[t]he unqualified language of section 17 demonstrates that the Constitution imposed an absolute prohibition on the State as regards torture, or inhuman, or degrading treatment.”*⁷⁹

Inhuman treatment may be described as “barbarous, brutal or cruel” treatment, while degrading implies treatment calculated or likely to destroy the qualities and character of the human.⁸⁰

Protection for privacy of home and other rights

Section 19—

- (1) Except with his own consent, no person shall be subject to the search of his*

person or his property or the entry by others on his premises.

(2) Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-

- (a) in the interests of defence, public safety, public order, public morality, public health, public revenue, town and country planning or the development and utilisation of any property in such a manner as to promote the public benefit; or*
- (b) to enable any body corporate established by any law for public purposes or any department of the Government of Jamaica or any local government authority to enter on the premises of any person in order to carry out work connected with any property or installation which is lawfully on such premises and which belongs to that body corporate or that Government or that authority, as the case may be; or*
- (c) for the purpose of preventing or detecting crime; or*
- (d) for the purpose of protecting the rights or freedoms of other persons.*

This section has been interpreted as involving a trespass to person or property and affords the citizen constitutional protection of his physical integrity and that of his property. At common law, every invasion of private property without consent is a trespass unless authorized by law.⁸³ Any search has to be grounded in reasonable cause or reasonable suspicion.⁸⁴

It appears from the material collected that the 160 Rastafaris were not taken into police custody on reasonable suspicion of having committed or being about to

commit any crimes, or for the purpose of preventing or detecting crime, or protecting the rights or freedoms of others, but on the sole basis of having been Rastafarians. It could not reasonably be argued that the house to house, camp to camp search of Rastafari and their homes was justifiable in the interests of defence, public safety, public order, public morality, public health, and public revenue. Therefore, the trespass on the homes and/or persons of the many victims, without reasonable cause, amounts to an infringement of section 19 of the Constitution.

Right to a Fair Trial

Section 20 includes several rights of persons accused of crimes and includes the right to a fair trial. Subsection (1) provides that:

“Whenever any person is charged with a criminal offence he shall unless the charge is withdrawn, be afforded a fair hearing, within a reasonable time by an independent and impartial court established by law.”

The subsection is designed to prevent the accused being subjected to charges indefinitely and unfairly. The section adequately protects the right to a fair trial of a person charged of a criminal offence.

Despite the many complaints that Rastafarians were sentenced without trials and without pleading guilty, the Public Defender’s assessment of the material collected has been rendered difficult by virtue of the lack of court records supporting such claims.

Protection of freedom of conscience

Section 21--

- “(1) Except with his own consent, no person shall be hindered in the enjoyment of his freedom of conscience, and for the purposes of this section the said freedom includes freedom of thought and of religion, freedom to change his religion or belief, and freedom, either alone or in community with others, and both in public and in private, to manifest and propagate his religion or belief in worship, teaching, practice and observance.*
- (2) Except with his own consent (or, if he is a minor, the consent of his parent or guardian), no person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if that instruction, ceremony or observance relates to a religion or a religious body or denomination other than his own.*
- (3) The constitution of a religious body or denomination shall not be altered except with the consent of the governing authority of that body or denomination.*
- (4) No religious body or denomination shall be prevented from providing religious instruction for persons of that body or denomination in the course of any education provided by that body or denomination whether or not that body or denomination is in receipt of any government subsidy, grant or other form of financial assistance designed to meet, in whole or in part, the cost of such course of education.*
- (5) No person shall be compelled to take any oath which is contrary to his religion or belief or to take any oath in a manner which is contrary to his religion or belief.*

(6) *Nothing contained in or done under the authority of any law shall be held to be inconsistent with or in contravention of this section to the extent that the law in question makes provision which is reasonably required-*

(a) in the interests of defence, public safety, public order, public morality or public health; or

(b) for the purpose of protecting the rights and freedoms of other persons, including the right to observe and practice any religion without the unsolicited intervention of members of any other religion.”

Section 21 protects religious beliefs and freedom of conscience. The right includes the right to carry out the external practices of one's creed, to endeavour to persuade others to adopt one's belief and the right to organize activities and meetings accordingly. Again, the restriction of that right could not be justified in the interest of defence, public safety, public order or morality, or public health in relation to the Coral Gardens incident where the victims were plainly imprisoned on account of their faith.

FINDINGS

Based on the material collated the Public Defender finds:

(1) throughout the period from its inception and in particular the events of Coral Gardens, Rastafarianism as a religion has been subject to discrimination, denigration and scorn.

(2) Its adherents have suffered extreme acts of violations of basic human rights.

It is for these reasons that the Public Defender makes the following recommendations.

RECOMMENDATIONS

The Public Defender is constrained to say that though she has identified constitutional breaches she has not found any yardstick by which to recommend individual monetary compensation. However, the recommendations are designed to offer redress to the community as distinct from individuals. In accordance with her statutory mandate the recommendations are:

- (1) The State use appropriate language to apologize to those persons who were directly affected by the events of Coral Gardens 1963 but who were not involved in the unlawful events or activities which lead to the tragedy.
- (2) The Ministries with responsibilities for Culture and Tourism establish a centre, specifically for development and preservation for Rastafari culture.
- (3) Urgent consideration be given by the State for the acquisition of the *Outamani* property in Trelawny with a view to allocating a portion thereof to the Rastafarian community for the establishment of the cultural centre at paragraph (2) above.

- (4) The State provides financial, technical and legal resources to the Rastafari community for the purpose organizing a co-operative society, exclusively for the benefit of Rastafarians.
- (5) That a trust fund of no less than ten million Jamaican dollars (J\$10,000,000.00) to be established, subject, however, to review if further due analysis of the issue suggests need for a greater sum, for the benefit of properly identifiable surviving victims of the Coral Gardens incident. Such trust fund to be managed by a board of trustees of person with expertise in finance, law and accounting.
- (6) That the State considers the granting of a licence to the co-operative society, once established, for the growing of ganja in order to supply:--
- (a) institutions legitimately involve in scientific research on the plant; and,
 - (b) legitimate users/consumers locally and overseas, if and when commercial use becomes legalised.



ARLENE HARRISON HENRY
PUBLIC DEFENDER

December, 2015

REFERENCES

- ¹ Mr. Albert Williams was charged with breach of the Vagrancy law and breach of the Dangerous Drugs Act and sentenced to thirty (30) days' imprisonment, hard labour. Mr. Enos Aldeen was charged with resisting arrest and sentenced to three (3) months' imprisonment and indecent language and sentenced to 40/ or thirty (30) days.
- ² Horace Campbell, *Rasta and Resistance: From Marcus Garvey to Walter Rodney*, Hansib Publishing Limited, London, 1985, 2 and 69
- ³ Barry Chevannes, *Rastafari: Roots and Ideology*, Syracuse University Press, 1995, 121; Robert A. Hill, *Dread History: Leonard P. Howell and Millenarian Visions in the Early Rastafarian Religion*, Research Associates School Times Publications/Frontline Distribution and Miguel Lorne Publishers, Chicago and Kingston, 2001, 27-31
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- ⁶⁶ Interview done by Deborah Kerr on *Bad Friday* documentary
- ⁶⁷ Margaret Demerieux, *Fundamental Rights in Commonwealth Caribbean Constitutions*, Faculty of Law Library, UWI, Barbados, 1992, 2, 4
- ⁶⁸ Ibid. 3
- ⁶⁹ Ibid. 4
- ⁷⁰ Ibid. 23
- ⁷¹ *R v Martin, Hinds and others* (1974) 22 WIR 368; See also *Minister of Home Affairs v Fisher* [1979] 3 All ER 21
- ⁷² *Liversidge v Anderson* [1942] A.C. 206 at 245
- ⁷³ *Doris Fuller (Administratrix Estate Agana Barrett deceased) v The Attorney General* (1998) 35 JLR 525 at 545
- ⁷⁴ L. Barnett, *The Constitutional Law of Jamaica*, 391
- ⁷⁵ Ibid. 392

- ⁷⁶ Margaret Demerieux, *Fundamental Rights in Commonwealth Caribbean Constitutions*, Faculty of Law Library, UWI, Barbados, 1992, 308
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- ⁷⁸ Constables have power under several statutes including the Constabulary Force Act and the Dangerous Drugs Act to search on reasonable cause or suspicion that an offence has been committed, is being committed, or is about to be committed. At common law, constables have power to enter private premises to prevent the commission of a felony or breach of the peace (*Thomas v Sawkins* [1935] 2 KB 249 and *Davis v Lisle* [1936] 2 KB 434).
- ⁷⁹ L. Barnett, *The Constitutional Law of Jamaica*, 399
- ⁸⁰ Ibid. 401
- ⁸¹ Ibid. 402-403
- ⁸² Ibid. 405
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